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Letter dated 14 June 1995 from the Permanent Representative of Croatia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the comments on the memorandum by the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) (A/50/92-E/1995/15) concerning the alleged violation of the human and civil rights of the Serbian ethnic community in the Republic of Croatia.

I should be grateful for your kind assistance in circulating the present letter and its annex as a document of the General Assembly, under item 114 (c) of the preliminary list.

(Signed) Mario NOBILO
Ambassador
Permanent Representative

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COMMENTS

on the memorandum by the Government of Federal Republic of Yugoslavia (Serbia/Montenegro) concerning the alleged violation of the human and civil rights of the Serbian ethnic community in the Republic of Croatia

In recent months the Government of the FRY (Serbia/Montenegro) distributed to various addresses "The Memorandum by the Government of FRY (Serbia/Montenegro) on the Violation of the Human and Civil Rights of the Serbian People in the Republic of Croatia". The Memorandum has been submitted to:

- the UN Commission for Human Rights under No. E/CN.4/1955/164 of 7 March 1995;
- all permanent missions to the OSCE in Vienna under No. DOC.507/95 of 21 March 1995;
- the UN General Assembly Economic and Social Council under No. A/50/92 E/1995/15 of 7 April 1995;
- a number of embassies in the Republic of Croatia and abroad.

The Memorandum will most probably continue to be circulated to various addresses, with the primary aim to disseminate false information. The purpose of the whole campaign is to promote the idea of the threat posed to the Serbian minority in Croatia, as well as to justify the policy of Serbian secession from Croatia and unification with Greater Serbia. The allegations about the violations of the human rights of the Serbian minority in Croatia are also designed to legitimize the current occupation of part of Croatia's sovereign territory where the ethnic cleansing of the non-Serbian population has been virtually completed and where the violation of international humanitarian law and human rights is practised on a constant basis.

The Memorandum is a continuation of the Serbian propaganda war started some time ago against the Republic of Croatia, and involves the repeated mass circulation of all kinds of materials produced by the propaganda machinery of the FRY (Serbia/Montenegro). In these materials, the authorities in Belgrade are either attempting to justify certain actions they have committed or accuse other states of committing illegal acts that the international community is holding the FRY (Serbia/Montenegro) responsible for.

Thus, the FRY (Serbia/Montenegro) distributed nineteen various materials at the 51st session of the UN Commission for Human Rights convened this year in Geneva, which, at its explicit request, were distributed as official documents of the UN Commission for Human Rights[1].

The main purpose of such documents is the presentation of false information regarding the real situation and acts of the FRY (Serbia and Montenegro), as well as the focusing of the scope of public attention far from the participation of the FRY (Serbia and Montenegro) in the occupation of the parts of the territory of the Republic of Croatia, and the occupation combined with daily combat practice in the Republic of Bosnia and Hercegovina.

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1. E/CN.4/1995/124; E/CN.4/1995/125; E/CN.4/1995/126; N.4/1995/127; E/CN.4/1995/128; E/CN.4/1995/129; E/CN.4/1995/130; E/CN 4/1995/131 E/CN 4/1995/132; E/CN.4/1995/133; E/CN.4/1995/152; E/CN.4/1995/153; E/CN.4/1995/154; E/CN.4/1995/162; E/CN.4/1995/163; E/CN 4/1995/164; E/CN.4/1995/165; E/CN 4/1995/166.

* * *

In its policy and approach to human and minority rights in relation to the Serbs in Croatia, the Republic of Croatia has never been guided by the principle of reciprocity. Instead, in compliance with the highest European standards, the Republic of Croatia has always granted its citizens of Serbian nationality greater rights than those given to Croats in the FRY (Serbia/Montenegro). Never the less it worth noting that the accusations contained in the Memorandum originate from and are being levelled by a state:

1. against which sanctions have been imposed as a reaction by the international community for its involvement in the war of aggression against the Republic of Croatia and the Republic of Bosnia-Herzegovina (UN resolution 757 (1992) of 30 May 1992) and which for that reason has been banned from many international bodies;

2. which refuses to cooperate with the Special Rapporteur of the UN Commission for Human Rights for the Territory of Former Yugoslavia and which has rejected a proper request for opening a UN Human Rights Centre for the Special Rapporteur's staff to independently collect data in the territory of the FRY (Serbia/Montenegro). The UN General Assembly in its Resolution 49/196 entitled "Human Rights Situation in the Republic of Bosnia and Hercegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)", and the UN Commission for Human Rights in its Resolution 89 of 2 March 1995, entitled "Situation of Human Rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia/Montenegro)", have clearly pointed out and condemned the present human rights situation in the FRY (Serbia and Montenegro), as well as its uncooperative approach towards the initiatives of the international community. The operative paragraph 2 of the Resolution 89 clearly states that the UN Commission for Human Rights:

" *...again deplores and strongly condemns the continued refusal of the Federal Republic of Yugoslavia (Serbia/Montenegro) and the self-proclaimed Bosnian Serb authorities, as described in the reports of the Special Rapporteur, to permit the Special Rapporteur to conduct investigations in territories under their control, as mandated by the Commission*";

3. which has completely resisted any attempt at the international assessment of the state of human rights and which has cancelled the OSCE mission on its territory. It is for this reason that the above cited resolution of the UN Commission for Human Rights, OP.27, calls upon the FRY (Serbia/Montenegro) to permit entry of the OSCE observer mission into Kosovo, Sandjak and Vojvodina:

"*...demands that the Federal Republic of Yugoslavia (Serbia/Montenegro) permit entry of the United Nations observer missions and field officers of the Special Rapporteur for Security and Cooperation in Europe into Kosovo, Sandjak and Vojvodina*";

4. which has been repeatedly warned by international fori regarding violations to the human rights of the Albanian minority in Kosovo, the Bulgarian minority in Serbia, as well as violations against Muslims in Sandjak and Croats and Hungarians in Vojvodina (OP. 23, 24 and 15 of resolution 89 of the UN Commission for Human Rights);

5. which refuses to recognize the national minority status to the Croatian community in the FRY (Serbia/Montenegro) on the grounds that minority rights cannot be granted to members of a nation whose state has not been recognized by the FRY (Serbia/Montenegro). This position has been confirmed on more than one occasion in documents addressed to various international bodies, e.g. in the 13 July 1994 letter by the Chargé d' Affaires of the Yugoslav Mission to the United Nations Mr. Djokić to the UN Secretary General; the 12 February 1995 letter by the Federal Minister for Human Rights and Minorities of the FRY (Serbia/Montenegro) Mrs. Margit Savović to the Democratic Union of Croats in Vojvodina; and in Article 2 of the Draft Law on the Freedoms, Rights and Duties of Members of National Minorities and Ethnic Groups in the FRY (Serbia/Montenegro),

6. which refuses to cooperate with the International Tribunal for War Crimes established under UN Security Council resolution 827 (1993) of 25 May 1993, and which has refused to extradite the perpetrators of war crimes and thus blocked the very functioning of the said Tribunal;

7. which has turned down the proposal by ICRC and the Republic of Croatia to set up a fact-finding mission pursuant to Article 90, Protocol I of the Geneva Convention of 12 August 1949, on the protection of the victims of international armed conflicts of 8 June 1977. Such a position is clearly designed to prevent an independent commission from investigating cases of the violation of international humanitarian law;

8. which has refused to cooperate with the expert in the Working Group on Enforced and Involuntary Disappearances, Mr. Manfred Nowak, in the special process to trace missing persons in the area of former Yugoslavia. It is for this reason that the aforementioned resolution of the UN Commission for Human Rights 89, OP. 20 further states:

"*...requests the Government of Croatia and of Bosnia and Herzegovina to continue and expand their cooperation with the special process, and strongly urges the Government of the Federal Republic of Yugoslavia (Serbia/Montenegro) to begin promptly such cooperation by inviting the expert to visit the country and by disclosing all relevant available information and documentation in order to finally determine the fate of thousands of missing persons and to alleviate the sufferings of their relatives*",

9. against which a complaint was raised before the International Court of Justice in The Hague in 1993 by the Government of the Republic of Bosnia and Herzegovina for having committed the crime of genocide according to the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia/Montenegro)).

The above mentioned clearly demonstrates that the Memorandum comes from a state which has been condemned in many international resolutions, especially those of the United Nations, for the gross violation of international humanitarian law and human rights (quoted above are only some of the most recent documents), for effecting the policy of ethnic cleansing and genocide, systematic rape and the complete destruction of whole towns (such as Vukovar). Although the international community has noted on several occasions that all sides in the conflict are responsible for the violation of human rights and humanitarian law, it has been explicitly pointed out that:

" *primary responsibility for most of these violations is borne by the leadership in territory under Serb control and by political and military leaders in the Federal Republic of Yugoslavia (Serbia/Montenegro)* ...", OP. 4 of Resolution 89. of the UN Commission for Human Rights, and the Resolution of the UN General Assembly No. 49/196 OP 4.

It is precisely the Government which is described and condemned by the international community as the party bearing the primary responsibility for the war of aggression and gross violation of international humanitarian law and human rights, and which has systematically and effectively resisted any attempt by the international community to investigate the state of human rights of not only the minority but also the majority population in the FRY (Serbia/Montenegro), that now finds it opportune and appropriate to disseminate such a memorandum.

* * *

Unlike the Belgrade Government, the Republic of Croatia has opened and continues to open its doors to the international community, to the effect that the standards applied in the protection of human and minority rights in the Republic of Croatia are studied by many international bodies and institutions. Owing to the cooperation of the Republic of Croatia with a series of rapporteurs, commissions and non-governmental organizations, there is a sizeable amount of documentation on the state of human rights in the Republic of Croatia. The differences elucidated in these documents as compared with the Memorandum clearly show that the allegations in the Memorandum of the FRY (Serbia/Montenegro) vary greatly to the findings of many international organizations, rapporteurs and non-governmental organizations, such as the Report by the Special Rapporteur Tadeusz Mazowiecki[2], the Report by the OSCE Rapporteurs in the Republic of Croatia[3], the Report by the Legal Experts of the Council of Europe[4], the reports by USIA[5], Amnesty International, the International Helsinki Federation, Helsinki Watch, US Department of State[6], etc.

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2. Sixth Periodical Report E/CN.4/1994/110 of 21 February 1994; Ninth Periodical Report E/CN.4/1994/54 of 31 October 1994; Tenth Periodical Report of 9 January 1995.

3. Report by the OSCE Rapporteur Mission in Croatia for September-October 1992.

4. Report of the OSCE legal experts (Matscher-Thune) AS/Bur/Croatia (1994) 2 of 8 December 1994; Report by the OSCE Parliamentary Assembly (van der Linden) As/Pol (1995) 8.

5. Report on the public opinion in the Republic of Croatia, USIA, 1994.

6. U.S. Department of State, Croatia: Human Rights Practices, in 1993 (closing with 31 January 1994).

The documents and reports of various international bodies suggest that the Republic of Croatia has some problems concerning the full protection of human rights on its territory. These shortcomings are systematically considered through constructive dialogue with international institutions (Special Rapporteur Tadeusz Mazowiecki), and is done not only in terms of current legislation (including Croatia's conformity with the European Convention on Human Rights), but also in terms of the implementation of laws.

As for the protection of human and minority rights in the Republic of Croatia, the following facts should be brought to notice.

1. As a fully-fledged UN Member State, the Republic of Croatia participates in the work of various international institutions and organizations. The Republic of Croatia has also acceded to nearly all international treaties and instruments related to human rights and accepted all relevant UN, OSCE and Council of Europe documents. Once ratified, these international agreements become an integral part of the legal system of the Republic of Croatia. Thus the Republic of Croatia has recently ratified the First Optional Protocol of the International Covenant on Civil and Political Rights, which gives its citizens the right to appeal to the Human Rights Committee for the protection of their civil and political rights.

In regard to its commitments arising from individual treaties, the Republic of Croatia has submitted additional and supplementary reports under the Convention on the Elimination of Racial Discrimination, which were reviewed by the Commission for the Elimination of Racial Discrimination (1993 and 1995); and an initial report under the Convention on the Elimination of Discrimination against Women and the Convention on the Rights of the Child. The Republic of Croatia has begun submitting periodical reports as required by international instruments and has presented its initial and supplementary reports to the Commission for the Elimination of Racial Discrimination (CERD), as well as the special report on the suffering of women to the Commission for the Elimination of Discrimination against Women (CEDAW). Croatia has been visited by various experts and special rapporteurs, e.g. by Mr. Enrique Bernales Ballesteros, CHR Special Rapporteur for Mercenaries, Mr. Maria Jorge Yutsis, and CERD Rapporteurs.

In the procedure for admittance to the Council of Europe, the Republic of Croatia has been visited by a number of Council of Europe rapporteur missions tasked with reviewing legislation and the state of human rights in Croatia. The Republic of Croatia has also started examining the conformity of its legislation with the European Convention on Human Rights.

2. The Republic of Croatia cooperates fully with the Special Rapporteur of the UN Commission for Human Rights for the Territory of Former Yugoslavia, Mr. Tadeusz Mazowiecki while the UN Human Rights Centre in Croatia (Field Office Zagreb) whose main goal is to enable the independent and unimpeded fact-finding work of the Special Rapporteur's staff has been opened and active in Croatia since the beginning of 1993. The Croatian Government is systematically analysing the reports of the Special Rapporteur and is consequently providing appropriate responses to the issues raised. Comments regarding the 9th Report by the Special Rapporteur were submitted to the UN Commission for Human Rights under No. E/CN.4/1995/156, of 1 March 1995. The detailed exchange of information is part of the review of specific issues and the way of properly dealing with them.

3. In order to improve and ensure the position of minorities, the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities and Minorities was passed in the 1992 that guarantees minority rights in compliance with the highest European standards. Bilateral agreements on the reciprocal protection of minorities have been concluded with some neighbouring states (Hungary) or are being negotiated (Italy). It should be noted that the aforementioned Consututional Law was a precondition for the recognition of Croatia by the European Union. The very fact that Croatia was recognized by the EU in 1992 testifies in itself that Croatian legislation is compatible with the high European standards on minority rights.

There are 16 minority groups living in Croatia today. The protection of their rights are primarily stipulated by several provisions in the Constitution: Art. 14 contains the principle of non-discrimination on account of race, colour, language, religion and ethnic origin; Art. 15, Para. 1, guarantees equal rights to members of all nationalities, ethnic communities and minorities; Art. 15, Para 2, provides for the freedom to express ones nationality, freedom to use ones language and script, and cultural autonomy; Art. 26 stipulates that all citizens and foreign nationals shall be equal before the courts, government bodies and other bodies vested with public powers; and Art. 41 guarantees equality before the law for all religious communities. Together with the guarantee of the right to cultural autonomy (Art. 5), the Constitutional Law guarantees all ethnic and national communities or minorities the right to the preservation of their identity, culture, religion, the public and private use of their language and script, and education (Art. 6, Para. c). In respect of education, the Constitutional Law governs the general rights of minorities in all parts of the Republic of Croatia, regardless of their number and regional concentration, whereas special status applies to ethnic communities living in an area where they constitute the majority of the population.

4. The Republic of Croatia has expressed its readiness to cooperate with the International Tribunal for War Crimes established under UN Security Council Resolution 827 (1993) of 25 May 1993. To this effect, the Government of the Republic of Croatia has systematically collected statements from the witnesses of war crimes, and to this purpose the Commission for War Crimes has been established. The Republic of Croatia is determined to prosecute and punish the those who have violated international humanitarian law and the authorities of the Republic of Croatia are taking all the necessary steps to identify persons who have committed war crimes on the territory of the Republic of Croatia, regardless of their ethnic or national origin.

5. The Republic of Croatia has initiated proceedings for the establishment of a fact-finding mission pursuant to Art. 90 of the 8 June 1977 Protocol I of the 12 August 1949 Geneva Conventions on the Protection of the Victims of International Armed Conflicts, in order to establish facts related to violations of international humanitarian law. The mission would consist of an impartial expert committee sponsored by the ICRC.

6. The Republic of Croatia is cooperating with the expert from the Working Group on Enforced and Involuntary Disappearances, Mr. Manfred Nowak. Mr. Nowak visited the Republic of Croatia during the special proceedings for establishing the fate of missing persons on the territory of the former Yugoslavia.

It is evident that the Republic of Croatia is fully committed to developing parliamentary democracy and the rule of law, as well as to the protection of the human rights of all its citizens.

The process of transition from a one-party system to a Western type democracy is proceeding under circumstances of aggression and the occupation of approximately 17 percent of the overall territory of the Republic of Croatia by Serb rebels. The results of the war of aggression have caused many casualties and large-scale destruction, and has placed an enormous burden on the state, which is responsible for a large number of displaced persons and refugees.

Nevertheless, the Republic of Croatia has always been open to all suggestions and proposals regarding human rights issues. In view of such permanent commitment, Croatia has accepted and will continue to accept suggestions and even criticism in good faith in order to eliminate its underlying causes.

The "Memorandum" swarms with distorted facts and unfounded conclusions. We would like to point to some of them here, noting that a detailed elaboration would by far exceed the attention which would reasonably become this document. A more detailed review of the historical section of the Memorandum is, therefore, enclosed.

* * *

Part I. History

The status, role and relation of the Croatian Serbs towards Croatia need to be addressed at this point and placed within a historical context (a more detailed review of the historical content of the Memorandum can be found in Enclosure I). The realization of the Serb national programme, known as the "Greater Serbia project", includes the Serb ethnic communities in the Republics of Bosnia-Herzegovina and Croatia. The primary goal of this programme is defined by the postulation that "all Serbs must live within a single state", i.e. "wherever there is a Serb grave, this is Serbia". Such a programme has given rise to corresponding Serb policies and political practices.

The "Greater Serbia project", however, is not merely a historical idea, but also has bearing on the present. During WWII, the exiled Government of the Kingdom of Yugoslavia through its Minister of the Army, Draža Mihajlović, drew up a document to allow for the annexation of almost 50 percent of Croatia's territory to Serbia. Even prior to the eruption of the present conflict, unleashed by the disintegration of the SFRY, the former JNA ("Yugoslav People's Army"), on behalf of Serbia and Montenegro, i.e. the FRY, organized, armed and encouraged part of the Serb population in Croatia to armed rebellion. The Serb rebels in Bosnia-Herzegovina and Croatia were supposed to come together and establish the so-called western borders of Greater Serbia thus providing for the "unification of all Serb lands".

The idea of "Greater Serbia" is even today being advocated by significant political forces in the FRY (Serbia and Montenegro), led by the opposition Serbian Radical Party, which keeps repeating that the Virovitica-Karlovac-Karlobag line forms the Western border of Serbia, thus incorporating Dalmatia, Lika, Kordun, Bania, Slavonia and Baranya i.e. more than half Croatia. It should be emphasised that this idea has been advocated and presented in various form since the mid-19th century and is still very much alive.

Renewed attempts at its "tacit realization" through greater-Serbian hegemony within the former SFRY caused the decline and eventual fall of the Yugoslav idea, as well as its eventual abandonment by the Croats who had created it in the first place at the end of WWI. "Open realization" of the "Greater Serbia project" was attempted in 1991/92 through armed aggression against Slovenia, Croatia and then Bosnia-Herzegovina. Moreover, prior to this, in 1989 Serbia unconstitutionally abolished the autonomy of the provinces of Vojvodina and Kosovo, and then of Montenegro; while it should also be mentioned that Serbia still does not recognize the statehood of the Former Yugoslav Republic of Macedonia.

The abovementioned is also confirmed by quotations in the book "My View of the Dissolution", by former Yugoslav Army general and the then Minister of Defence of the SFRY Mr. Veljko Kadijević (Enclosure II).

* * *

In Part III of the Memorandum, the alleged violation of human and civil rights of ethnic Serbs on the territory of the Republic of Croatia are given, with special emphasis on the following:

1. the reduction of the status of Serbs from a constituent people to national minority

When the Republic of Croatia was established as an independent state there was no justification for providing the constituent status for a 12.2 percent minority and therefore the ethnic Serb community was accorded all minority rights. The Serbs have their state - Serbia as part of the FRY - and in the Republic of Croatia they enjoy the status and full rights of national minority i.e. ethnic community, in conformity with the Constitution of the Republic of Croatia and the Constitutional Law on Human Rights and the Rights of Ethnic and National Communities or Minorities. It should hereby be noted that a 12.2 percent ethnic group is by any international legal definition considered a minority.

2. the suppression of the Serb language and Cyrillic script

In the Republic of Croatia the Croatian language and Latin script are in official use. The Serb language and Cyrillic script are used in conformity with the provisions of Croatia's Constitutional Law, which entitles members of all ethnic and national communities or minorities living in the Republic of Croatia to the free private and public use of their language and script. Members of ethnic and national communities or minorities that constitute a majority of the population in certain municipality have the right of the official use of their own language and script, beside the Croatian language and Latin script.

3. denying publication of newspapers and broadcast of radio and TV programmes in the Serb language

Art. 10 of the Constitutional Law contains a provision under which minorities may freely engage in media and publishing activities in their own language and script. The Republic of Croatia and local self-government bodies are doing what they can to assist minorities in the exercise of this right. On the free territory of the Republic of Croatia, in the Gorski Kotar region, at least two papers are being published by Serb associations: "Gomirske novine" and "Prosvjeta". Both papers are published partly in the Cyrillic script and their publication is financially supported by the Croatian Government. The Telecommunications Act entitles local radio and TV stations to broadcast programmes in Croatian dialects and minority languages, with the provision that the length of such programmes should possibly correspond with the share of the respective minority in the total population of the region, and is restricted to 50 percent of the average length of daily broadcasts.

4. the violation of the basic provisions of the Convention on the Elimination of All Forms of Racial Discrimination

The Republic of Croatia has actively engaged in meeting its obligations under the Convention on the Elimination of All Forms of Racial Discrimination (CERD) by submitting an initial report as well as by receiving the CERD Special Rapporteur for Croatia, Mr. Mario Jorge Yutzis, and submitting and presenting additional information (in contrast to the FRY which did not appear at its own presentation). Committee members commended Croatia's efforts in regard to the cooperate with and implementation of CERD provisions. Although there were certain comments and appeals for more efficient implementation of the Convention, Croatia's commitment was never questioned.

* * *

The Memorandum further accuses the Republic of Croatia of a series of discriminatory acts; from the gravest human rights violations like war crimes, genocide, ethnic cleansing and physical maltreatment, to arbitrary dismissals at work, unlawful evictions, mass-destruction of property and denying citizenship. The international community is hereby invited to evaluate the evident falsehood of these accusations by comparing the Memorandum with the reports of the Special Rapporteur of the UN Human Rights Committee for the Territory of the Former Yugoslavia, Mr. Tadeusz Mazowiecki, as well as findings in the reports of various organizations, including NGOs, or reports by the US Department of State.

Part IV. Legal discrimination of the Serb population in Croatia

Ethnic Serbs in the Republic of Croatia enjoy a national minority status with all its rights and privileges. In contrast to this, ethnic Croats in the FRY (Serbia and Montenegro) have not even been recognized as a national minority, which is in keeping with the FRY policy of denying or not to recognizing an adequate status for its minorities. Legal protection for minorities in the Republic of Croatia is comprehensive. Their rights are guaranteed principally by the Constitution (Art. 15) and the Constitutional Law on Human Rights and the Rights of Ethnic and National Communities or Minorities, which, comparatively, is the most comprehensive in Europe with regard to the protection of minority rights. Ethnic Serbs are guaranteed special status for the predominantly Serb inhabited Knin and Glina Districts with their constitutionally provided special self-governing (autonomous) status.

According to Art. 18 of the Constitutional Law, members of national minorities who make up more than 8 percent of the total population of the Republic of Croatia are entitled to proportional representation in the Parliament and Government (in which presently one minister is of Serb ethnic origin), as well as in the highest judicial bodies. Ethnic communities or minorities which constitute less than 8 percent of the population are entitled to a total of five representatives in the House of Representatives. All ethnic communities or minorities are entitled to proportional representation in the bodies of local self-government. Accordingly, representatives of the Serb ethnic community, which according to the 1991 population census constitute 11 percent of the total population, hold 13 seats in the Parliament. One Member of Parliament of ethnic Serbian origin has also been elected as a Deputy Speaker in the House of Representatives.

In order to protect and safeguard the right of the Serb minority to be proportionally represented in the Parliament, the Constitutional Court of the Republic of Croatia enacted its decision No. U-VII 233/1992 of 6 August 1992, under which the criterion set by Art. 24 of the Elections Act was altered and Art. 18 of the Constitutional Law applied directly. Thus, the Serb representatives acquired 13 seats in the House of Representatives, notwithstanding the fact that the Serb National Party, as the only party directly representing Serb minority interests, did not manage to win the required 3 percent of election votes.

The eleven municipalities in the Republic of Croatia where the Serbs make up the majority of the local population according to the 1991 census form two districts (Knin and Glina) with special status (local autonomy). To a large extent this model has been patterned after the local autonomy arrangement in the Italian province of Alto Adige. In regard to the powers of the local representative bodies, the special status given to the two districts exceeds even the Alto Adige model. Provisions related to curricula and the funding of schools where classes are taught in the language of a national community or minority, and which are contained in the abovementioned Constitutional Law, also apply to these two districts. However, in addition to these general rights, competent district authorities are independent in their decision-making in regard to the district-level establishment of cultural, scientific and educational institutions, including secondary schools. The District Assembly is also entitled to enact regulations in accordance with the Law on Kindergartens and the Construction of Schools.

1. the violation of POW Conventions

The FRY (Serbia and Montenegro) Memorandum allegations of the violation of POW Conventions by the Croatian authorities, particularly in connection with ostensible torture, physical and mental abuse, are blunt imputations.

The authorities of the Republic of Croatia fully honour the provisions of the Geneva Conventions which, in compliance with the provisions of the Constitution of the Republic of Croatia, prevail over internal laws. On 27 April 1992, the Republic of Croatia notified succession to the 1949 Geneva Conventions and additional protocols thereto, the first international instruments to which Croatia became a party. Even before formal notification of this succession, the Constitutional Decision on Sovereignty and Independence passed by the Croatian Parliament on 25 June 1991 stipulated that the Republic of Croatia was to adopt all international treaties to which the former SFRY had been a party unless they be in contravention to the Constitution.

On 27 November 1991, during the height of the aggression waged by the JNA (Yugoslav People's Army) and Serb rebel forces, the Republics of Croatia and Serbia and the JNA signed in Geneva a Memorandum of Understanding where, inter alia, they agreed to the partial application of the Geneva Conventions by the signatories. Article 8 of the said Memorandum stipulated the appointment of a so-called Fact-Finding Field Mission composed of the representatives of the warring parties. Its activities, however, have always been obstructed by the Serbian authorities.

Moreover, the systematic, intentional and flagrant violation of the provisions of international humanitarian law by the JNA and Serbian paramilitary forces under its shield on Croatian territory have been repeatedly confirmed in a number of reports by international bodies (the Special Rapporteur of the UN Human Rights Commission; the Final Report by the UN Expert Commission on War Crimes, of May 1994). One of the most obvious examples of the gross violation of humanitarian law was the destruction and occupation of the town of Vukovar (on 18 November 1991), and the succeeding expulsion of the non-Serb population by the JNA. Many deportees are still listed as missing, and there is every reason to believe that they have been killed. Vukovar, with its 32.3% Serb population before the occupation, has became an entirely Serbian enclave. Although violations of humanitarian law by individual members of the Croatian police and armed forces were reported during the course of the defensive war, the perpetrators of these acts were duly prosecuted in accordance with the national and international commitments of the Republic of Croatia. Furthermore, the Republic of Croatia has acknowledged the jurisdiction of the International Tribunal for War Crimes on the territory of the former Yugoslavia. Croatia hopes that all perpetrators of war crimes, regardless of their nationality or citizenship, will be brought to justice and adequately punished.

2. Ethnic cleansing and illegal detention

The Memorandum alleges that some 350,000 Serbs have left areas under the control of the Croatian authorities. According to the 1991 census, conducted pursuant to the regulations and laws of the then SFRY, 293,883 Serbs had been living in this territory before the onset of aggression. Should such an allegation be taken for granted, it would mean that more Serbs had left those areas than had originally lived there.

Actually, areas controlled by Croatian authorities were abandoned by 75,883 ethnic Serbs, for various reasons: the departure of JNA officers with their families, as well as some Party officials, security and secret police members, exchange of apartments or houses with Croats from Serbia or Montenegro, and the relocation of Serbian families organized under the auspices of Belgrade. For example, quite a portion of the West Slavonian population withdrew alongside the withdrawing JNA. Notwithstanding the above, the bulk of the Croatian Serbs are still living in the occupied territory of Croatia.

Ethnic cleansing was both conceived and practised primarily by the Serbs, organized on a massive scale in the former UNPAs, (out of the total number of 283,000 citizens of Croatian nationality that lived in the occupied territories in the time of the beginning of the aggression against the Republic of Croatia, only about 10,000 still live in these areas), as confirmed in the reports by international monitors (e.g., Mazowiecki) and in the resolutions of human rights organizations (UN Third Committee, Human Rights resolution).

The US Department of State Report: Croatia: Human Rights Practices, 1993, is an

example. A portion of the text reads as follows[7],:

"Persecutions such as ethnic cleansing, suffered by the Croats, Hungarians, Slovaks, Czechs and other non-Serbs alike, were undertaken with the approval of the Serbian authorities in the UNPAs: On 19 July, four Croatian women were abducted from Sector South; some time around 6 August, 16 Croats were abducted from Sector East. According to the UNPROFOR estimates, less than 400 Croats still abide in Sector South. The president of the Hungarian Democratic Union in Croatia stated on 28 June that some 8,000 Hungarians, mostly from Sector East, had been forced to flee to Hungary, whereas a further 2,000 became refugees in other parts of Croatia due to the ethnic cleansing undertaken by the Serbs."

Ethnic cleansing and illegal detention are unimaginable in a state where the rule of law presides, as is the case in the Republic of Croatia. Yet these practices are being conducted by the rebel Serbs in the occupied areas. Within the framework of current legislation in the Republic of Croatia, legal proceedings are being instituted against all persons, regardless of nationality, where it is reasonably believed that crimes against humanity and international law have been perpetrated. The extent of their guilt is assessed and the sentence passed according to law.

3. Brutal killings of civilians; missing persons

In response to the mass murder and destruction by the JNA and Serbian paramilitary forces, at the outset of the war there had been occurrences of individual revenge against Serb nationals in the Republic of Croatia by Croats directly affected by the aforementioned acts. These were isolated cases, and the perpetrators were duly prosecuted. They had never been a part of an organized or large-scale scheme, as is the case with counterparts on the other side. On the contrary, with the passage of time these incidences have almost entirely disappeared, as proven in the reports by international observers (e.g., Periodical Reports No. 9 and 10 by Mr. Mazowiecki, and US Department of State Reports for 1993 and 1994). These same reports continue to record civilian massacres in the occupied areas of the Republic of Croatia. The US Department of State report "Croatia: Human Rights Practices, 1993"[8], exemplified this as follows:

"Killings persist in the UNPAs as part of the ethnic cleansing plan devised by the Belgrade Serbs: In Sector South an elderly Croatian woman who had refused to leave the area was found stabbed through the neck and arm with a gaff;

Each of these cases is subject to both international investigation and regular national procedure to the effect that every criminal act is adequately punished in proportion to the nature of the crime, regardless of the victim's nationality.

As for the problem of missing persons, the fate of 2,800 Croatian citizens of mostly Croatian nationality remain unclear. Croatia is prepared to cooperate with all parties in its efforts to trace these persons, or to learn the truth about their fate. In this respect Croatia initiated the passing of a resolution of the UN Commission for Human Rights on the procedure for locating missing persons and called for the urgent and efficient dealing of this problem. It should be noted that the FRY (Serbia/Montenegro) has

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7. U.S. Department of State, Croatia: Human Rights Practices 1993, 31 January 1994.

refused to cooperate in actions to trace the missing persons and that, consequently, the work of the commissions set up for this purpose has hitherto not yielded any results.

4. Destruction of houses, flats and property

In regard to allegations in the Memorandum concerning the destruction of property belonging to Croatian citizens of Serbian origin, including the allegedly planned demolition of houses owned by them, it must be stressed that no campaign to this effect has ever been organized in the Republic of Croatia. The aggression against the Republic of Croatia resulted in; the destruction of or damage to 260,000 housing units and 1,870 kilometres of road, as well as 40 percent of the total number of industrial facilities. A total number of 8,802 cases of destruction or arson of houses belonging to citizens of the Republic of Croatia have been registered, out of which 6,085 cases concern houses belonging to citizens of Serb nationality. It is obvious that for the most part such incidents occurred in areas bordering on the occupied parts of Croatia, especially in the course of 1991 and 1992, a period of the fiercest Serbian attacks on Croatia. Such criminal acts were mostly the result of a state of war, and can be attributed to the vast quantities of firearms and explosives out of official control and the pressure exerted by rebel Serbs as part of the by now completed process of ethnic cleansing of the non-Serb population in the occupied territories.

Once Croatia regained sovereignty over most of its territory, and following the abatement in the armed conflict, a drastic fall in the rate of these criminal acts were recorded. During 1993 and 1994, 628 such acts committed against citizens of Serbian origin were recorded, out of a total number of 2,073 registered cases. Under such circumstances, an essential change in the national composition of the owners of destroyed or damaged houses became evident: houses owned by Croats tend to become threatened to a greater extent. The competent authorities of the Republic of Croatia are processing such cases regardless of the nationality, race or religion of the affected persons.

5. Demolition of church structures

The Memorandum accuses Croatian authorities of the organized vandalization of 294 churches, monasteries, eparchy residences etc. In March 1994, the Council of Europe sent a fact-finding mission headed by Dr. Colin Kaiser, whose report, Doc. 7070, was submitted to the Council of Europe Parliamentary Assembly.

In the said report, the Council of Europe mission found that the extent of damage was by far below that which was alleged by the Serbian side and they described the Serbian accusations as abounding with false information. There was no question of any coordinated vandalism and were all reported to be cases where minor damage was inflicted. Having examined individual cases, the Council of Europe mission found that most buildings were intact or in a state of disrepair. Furthermore, the Mission did not manage to identify any of the allegedly damaged buildings although a number of Orthodox churches were found to have been destroyed as a result of the Serb bombardment (e.g. the Eparchy Church in Pakrac). The same Mission found that, while the Orthodox heritage on the whole suffered minor damage, Catholic and Protestant churches had been severely battered by artillery or vandalized; including 361 churches, 183 castles, 37 old fortresses and 8 cemeteries and mausoleums.

The Memorandum includes the allegation that Orthodox priests are being maltreated and arrested and thus forced to leave Croatia. However, the Orthodox priest in Zagreb Jovan Nikolić declares that, following the democratic changes, religious freedom in the Republic of Croatia has become much greater. Religious beliefs are expressed and religious holidays celebrated freely. In some areas of Croatia, where there were no Orthodox priests before the war, they have started with religious services (e.g. Gomirje in Gorski Kotar). Some Orthodox priests, who left Croatia at the beginning of the war, are now returning on a permanent or temporary basis (just to mention one example, the Metropolitan Jovan Pavlović, in possession of all his regular Croatian documents, held a religious service in his Zagreb church on St. Nicholas Day).

6. Spiritual Genocide

According to the Memorandum, the Republic of Croatia has embarked on "the most perfidious policy of converting Serbs from the Orthodox to the Catholic religion" and has so far "rechristened" more than 10,000 children. One should be reminded of the fact that the Catholic Church recognizes Orthodox baptism and that, consequently, any Catholic priest performing a renewed rite of baptism would in fact be violating church code and would be condemned by church authorities. It should also be reiterated that for the attendance of religious instruction - 70 percent in primary and 30 percent in secondary schools - baptism is not a precondition. The statement by a leader of the Serbian National Party and member of the Croatian Parliament concerning 10,000 "rechristened" children to the Catholic faith is, according to data provided by the Catholic Church, wholly unfounded. The existence of individual cases of changed religion, if any, is a highly personal matter and one that concerns only the children and parents involved. Croatian authorities cannot and will not influence any individual in any way in regard to this matter.

7. The problems of citizenship

After passing the 1991 Citizenship Act, the competent Croatian authorities (Ministry of Internal Affairs) became faced with many unsolved cases of citizenship to the effect that the period of time set for the submission of applications had to be prolonged. Such cases cannot be associated with individuals of Serbian nationality. An application for Croatian citizenship does not require any declaration of loyalty, although it does require, as in the case in any other state around the world, respect for law and order and for national customs. By a decision of the Constitutional Court of the Republic of Croatia a disputed Article of the Citizenship Act was amended so that any refusal by the Ministry of Internal Affairs to grant citizenship must be adequately explained. According to the Ministry's data, as of 1992 more than 650,000 applications for Croatian citizenship have been received, of which 63,134 applications were from citizens of Serbian nationality. In all, a total number of 39,436 applications were rejected, of which 8,596 applications were from citizens of Serbian nationality. These applications were turned down mostly due to the unfulfilled condition that each applicant must have lived in the Republic of Croatia for a minimum of 5-years, and certainly not, as stated in the Memorandum, "for reasons of interest of the Republic of Croatia". In regard to the applications that were turned down, 13,225 complaints were lodged with the courts, of which 4,242 were rejected through court rulings by the end of 1994. Recently, an increase in the tendency of Serbs from the occupied territories of Croatia being admitted to Croatian citizenship has been noted.

8. Demolition of monuments to the victims of fascism

The Preamble to the Constitution of the Republic of Croatia on the history of Croatian statehood explicitly gives special credit to the ZAVNOH (The Antifascist Council for the National Liberation of Croatia) and thus reaffirms the antifascist orientation of the Republic of Croatia and thereby the achievements of the antifascist movement in Croatia and elsewhere in the world. Consequently, the competent Croatian authorities have undertaken to care for antifascist memorials.

The innuendoes contained in the Memorandum concerning the alleged organized demolition of monuments to the victims of fascism in Croatia can hardly be more cynical than they are. During the brutal aggression against Croatia it was the forces of the former JNA (Yugoslav People's Army), exclusively composed of Serbs, which destroyed the cultural heritage of Croatia on massive scale, including antifascist memorials.

Although several cases of the destruction of such objects have been recorded, such individual acts cannot be taken as a part of the systematic policy of the Republic of Croatia.

Particularly illustrative is the allegation that the Croatian authorities demolished or damaged the Jasenovac memorial site, which, from the very outset of the Serbian aggression against Croatia was taken over by the rebel Serbs. After the liberation of this memorial site many eyewitnesses could see for themselves that it has remained intact.

Enclosure 1: History

With regard to historical facts concerning the settlement of Serbs on the state territory of the Republic of Croatia, the following has to be pointed out:

The areas of Croatia occupied by the Serbs, which include two areas in which locally the Serbs make up an absolute majority and others in which the Croats make up a relative or absolute majority, have been part of the Croatian state from the early Middle Ages. The tradition of contemporary Croatian statehood dates back to the 9th century. That statehood was based on the recognition of Croatian kings as sovereign rulers by neighbouring rulers and the Byzantium, and was confirmed when the Pope crowned Dmitar Zvonimir as the Croatian King in 1076.

Following the death of the last King born of Croatian blood, the Croatian feudal lords accepted the Hungarian dynasty in 1102, and Croatia entered into a personal union with Hungary. In 1527, the Croatian Sabor (Parliament) independently chose the Hapsburgs as the rulers of Croatia.

Until 1918, separate Croatian statehood was confirmed by a series of specially applied rights originating from the Middle Ages. The institution of the Sabor (Croatian parliament, originating in the Middle Ages), became particularly important and independently adopted laws for Croatia and accepted (or refused) laws of the Joint Hungarian-Croatian Sabor, which was the only way these laws could become relevant for the territory of Croatia. Equally important was the medieval institution of "Ban" (vice-roy), the administrative head of Croatia. During the course of history, the territory of today's Dalmatia was annexed from the rest of Croatian, which then comprised of Dalmatia, the narrow belt of central Croatia and Slavonia. In the 19th century Dalmatia was regained by the Hapsburgs and placed under their direct authority. The Croatian Sabor attempted to renew Croatia's right to this area by its claims to bring Dalmatia back under effective Croatian authority; and the Hapsburgs repeatedly made promises to do so. Sovereign Croatian rights were continuously reflected in the official title of the Croatian state: "The Triune Kingdom of Dalmatia, Croatia and Slavonia". The lack of a political link was compensated by steady and very strong cultural links, and the national political movement in Dalmatia and Central Croatia in the 19th century, which firmly demanded the return of Dalmatia to Croatian rule.

In spite of difficulties in establishing consensus over the settlement of Croats and Serbs in this region during the Middle Ages, it is an indisputable fact that today's Croatian territories were settled by Croats (and not Serbs). The area around the medieval Croatian town of Knin was one of the most important centres of the early medieval Croatian state in the 10th century. This has been confirmed by rich archaeological findings, well-explored since the 19th century. It was the aforementioned Dmitar Zvonimir who ruled the entire Croatian kingdom from Knin. The Orthodox population ("Wallach" or Serb) arrived in these territories in larger numbers during the Turkish invasions. During the occupation in the 16th century, the Orthodox Church was accorded a privileged position by the Turkish invaders because they were able to control it completely- unlike the Western Catholic Church, with its seat in the Vatican.

As for the ethnic status of the Croatian areas of Lika, Kordun, Bania and Slavonia, in which Serbs make up either a minority or majority today, their settlement in the 16th and 17th centuries is relevant. Immigrants fleeing from the Turkish areas settled in the bordering Croatian areas, from which the Croatian population had moved out because of Turkish attacks. The Austrian authorities gradually exempted these immigrants, and later also the areas, from the taxation, military, administrative and legislative authority of the Croatian Kingdom, in order to establish a border area and obtain reserve troops, which would always be ready to fight against the Turks as well as to intervene elsewhere in Europe.

The troops of these border areas served this purpose admirably, fighting throughout Europe during the life of the Croatian Military District (Krajina), i.e. until 1881, when the District was abolished as an administrative entity by a decision of Francis Joseph I. The special status of this area was confirmed by the "Statuta Valachorum" (1630). It defined the Military District as a special district under military authority and direct rule of the Austrian court. In this completely military organized area, all authority (including civil) was exercised by military commanders, and social life was subordinated to the needs of the military (which meant that there was no possibility of acquiring private property, life was prescribed in family co-operatives, criminal-law regulations were extremely severe etc.). It was literally a military administration, with traces of local self-administration, but without the slightest attributes of statehood. The important characteristic of this belt was not its ethnic compactness but its military function; official Austrian documents call it a Military Border (Militärgrenze). It is worth mentioning that this belt comprised a wider area than that aspired to by the Serbs today, including the areas with an exclusively Croat population (e.g. the Primorje Military District with the Croatian town of Senj, demilitarized in 1869).

The status of these areas was systematically regulated for the first time in 1630 by the "Statuta Valachorum". These regulations were named after the predominant ethnic group in the first militarized areas, i.e. the Wallachs, a people coming from Turkish ruled mountainous areas, where they raised cattle and whose origins date back to pre-Roman times. The Wallachs accepted the Orthodox religion before settling in the Croatian Military District and Wallachs in Serbia have only recently begun to claim their particularity. The Orthodox Church was an important factor in their serbification and gradual and full incorporation into the Serb nation, despite the fact that traces of their particularity were clearly visible in Croatia even in the 19th century. Since the Croatian Military District was bluntly wrenched from Croatian sovereignty against the will of the Croatian Sabor, the Sabor repeatedly demanded its return to Croatia, which was supported by the very inhabitants of the Military District in the 19th century. As the military importance of the Military District began to decrease in the second half of the 19th century, its gradual demilitarization and return to Croatian civil authority was initiated.

This process was completed in 1881, when the District's special status was abolished and it was completely reintegrated into Croatia, which included the election of representatives to the Sabor and the jurisdiction of all Croatian authorities in this area. As of 1881, the Military District in Croatia has not had any particularity.

Efforts to hungarize and germanize Croatia were aimed at dividing Croats and Serbs, but the reaction of the Croatian side was in no way to croatize the Serbs. Indeed, the Croatian Sabor officially recognized, by its special and explicit decision No. 31 of 1861, the equality of Serbs and Croats. In the second half of the 19th century, the Yugoslav idea, whose aim was to establish federal links between southern Slavs, gained momentum in Croatia. At the same time, following the Balkan wars and decisions by the great powers, a Serbian state was formed from a portion of the oriental, despotic Turkish empire, whose earlier tradition was continued by that state and which soon established its own expansionist and imperialist political goals, which were explicitly formulated by Ilija Garašanin in his "Načertanije" in 1844, where he advocated Greater Serbia. This ideology assumed its chauvinist character at the end of the 19th century, where it advocated the establishment of Serbian national territory, defined on the principle that Serbia is wherever there are Serbs. It was accompanied by the greater-Serbian notion that Croats were also Serbs because of similarities between the Serbian and Croatian languages, which was particularly expressed in "Serbi svi i svuda" ("Serbs - Wherever You Go"), a work by the then leading cultural figure in Serbia, Vuk Karadžić.

The convergent forces of south-Slavic union were, on the one hand, Croatian politicians who advocated federalist Yugoslavia and, on the other hand, Serbian politicians who resisted a federalist union in favour of the annexation of new territories to Greater Serbia. The unification of Croatia and other south-Slavic territories of the Austro-Hungarian Empire with Serbia after the First World War in 1918 was done unlawfully and against the instructions of the Croatian Sabor. The Kingdom of Serbs, Croats and Slovenes, i.e. the Kingdom of Yugoslavia, soon proved to be an extended Serbia with a government based on dictatorship. In Yugoslavia, Croats were politically and culturally oppressed; the leaders of the peacetime Croatian Peasant Party, who advocated Croatian rights, were shot and killed by a Serbian representative during a session of the Yugoslav Assembly in 1928. The assassin was never brought to trial. The inability to resolve such conflicts, which threatened to cause the dissolution of the state just before the Second World War, lead to an agreement between the Croatian National Movement and the Yugoslav Government, and the establishment of a separate entity, the Banovina Hrvatska ("the Banat of Croatia") in 1939. The Banovina Hrvatska reflected the continued statehood tradition of Croatia and its inherent federalist features. Territorially, the Banovina Hrvatska included all the currently occupied parts of the Republic of Croatia and the Croatian areas of today's Bosnia and Herzegovina, but, due to the Second World War, it was never fully realized.

The dissolution of Yugoslavia was inevitable in 1941. On the one hand, in this interregnum the Independent State of Croatia was formed (1941), on the basis of Croatian state-legal tradition. It sought to realize the dream of sovereign Croatian statehood under the sponsorship of the Fascist forces. On the other hand, the partisan and anti-Fascist federalist Croatia was established within the anti-Fascist movement in Croatia. It was established on the principle of national self-determination and within the tradition and territorial borders of Croatian state sovereignty, to which the acts of ZAVNOH (Anti-Fascist Council of National Liberation of Croatia) from 1944 testify. In this way, with the participation of the Serb representatives, the old institution of the Croatian Sabor was renewed and the traditional borders of Croatia were accepted, and have remained ever since, notwithstanding the separatist tendencies among the Serbs.

II.

Croatian state legal and political traditions are testimony to Croatia's efforts to reconciliate with and fully include the Serbs into the political and cultural life of Croatia, which was, especially in the 19th century, to a great extent successfully realized. This is shown by the aforementioned decision of the Croatian Sabor of 1861 and the large number of Serbs involved in Croatian politics and governmental, political (the Croatian Sabor in particular) as well as cultural bodies in the 19th century. Croatian policy was constant in its effort to include Serbs in Croatian political and cultural life as Serbs, but also as Croatian citizens. However, the behaviour of the Croatian Serbs was greatly influenced by the development of the Serbian state and its policy, based on the abovementioned expansionist logic and Balkan imperialism, supported in particular by the Serbian Orthodox Church. This Church became the promoter of these efforts in Austro-Hungarian areas, where it influenced all layers of the Orthodox population. This led to the serbification of the Wallach ethnic group which, together with the Serbs and the Serbian state as their source of inspiration, increasingly advocated anti-Croat tendencies.

Enclosure 2

The book "My View of the Dissolution", by Army General Veljko Kadijević, the Defence Minister of the former SFR Yugoslavia, whose father was a Croatian Serb and who was born near the Croatian town of Imotski (the village of Glavina), was published in Belgrade in 1993 by "Politika - izdavačka djelatnost".

On the whole, but especially taking into consideration the quotations listed below, the book reveals itself to be a sort of admission which shows that the scenario of the military attack against Croatia and some other republics of the former Yugoslavia (especially Bosnia and Herzegovina) was elaborated and planned in advance and prepared for over a long period of time. The work implies that plans were made to utilize one federal institution (the JNA) for the sole interest of only one of the several constituent nations of the former federal community (the Serbs).

Quotations:
p. 134:

(i) - "...the task of using the JNA at that stage of the war in Croatia was: to protect the Serbian people in Croatia by liberating in every sense all areas with a majority Serbian population from the presence of the Croatian army and Croatian authorities;"

(ii) - "...circumstances allowing, to defeat the Croatian army by using all available means to an extent which would enable the realization of the goals set; to achieve full cooperation with the Serb rebels in the Serb Kraina; ... to take into account that the role of the Serbian people in Bosnia and Herzegovina will be crucial for the future of the Serbian people as a whole. The location of JNA forces must be adjusted to that."

(iii) - "...Tasks must be performed in two phases. In the first, the intensive organization and preparation of the Serb rebels in Croatia is to be coupled with counterattacks of tactical significance must be executed until Croatia's aggression is brought forth; in the second, the defeat of the Croatian Army in a concerted operational and strategic attack, and implementation of the tasks set."

p.135:
(iv) - "The idea of the manoeuvre contained the following basic elements:

(v) - block Croatia completely from air and sea;

(vi) - link the directions of the attack by the main JNA forces as directly as possible with the liberation of the Serb areas in Croatia and JNA garrisons deep in Croatian territories. To do this, cut Croatia along the lines Gradiška-Virovitica; Bihać-Karlovac-Zagreb; Knin-Zadar; Mostar-Split. Free Eastern Slavonia with the strongest group of armoured and mechanized forces, and after that continue the campaign to the West, meet with the forces in Western Slavonia and continue toward Zagreb and Varaždin, i.e. the Slovenian border. At the same time, block Dubrovnik from land with strong forces from the Herceg Novi-Trebinje district, reach the Neretva valley and in this way cooperate with the forces which act in the direction of Mostar-Split;

(vii) - upon reaching certain facilities, secure and hold the border of the Serbian Kraina in Croatia, pull out the remaining units of the JNA from Slovenia and after that withdraw the JNA from Croatia."

The aforementioned quotations clearly demonstrate that the basic war goals of the JNA were the following:

(a) changes to the republican borders and the drawing of new ones; i.e. redrawing international borders. By withdrawing from Slovenia and defining parts of Croatia it wanted to occupy, the JNA actually drew the borders of "Greater Serbia" or new Yugoslavia (quotation i);

(b) cooperation with "the Serb rebels in the Serb Kraina", with a view to providing, already at that time, space for action in neighbouring Bosnia and Herzegovina, where the war had not yet started (quotation ii: special role of the Serbs in Bosnia and Herzegovina, to which the "location of JNA forces" must be adjusted). This part of the JNA's operational plan clearly shows that the actions of the former federal army and the existence of "Serb rebels" - one year before the Republic of Croatia proclaimed independence - was not a reaction to the moves of Croatian authorities but the action and state policy of Serbia and were planned well in advance. This is also confirmed by the fact that the JNA was withdrawn to Bosnia and Herzegovina, where the war culminated (quotation vii);

(c) the operational directions of JNA actions actually correspond to a great extent, as admitted by general Kadijević, to the borders of "Greater Serbia", as drawn by Ilija Garašanin in the last century.

After completing the optimum of operational tasks possible - by helping the "rebels" to occupy or control almost a fourth of Croatia's territory and almost three fourths of the territory of Bosnia and Herzegovina - the JNA was actually divided. According to the admission of its generals (e.g. Ratko Mladić[8], the former JNA commander of the Knin Corps, and the current commander of the forces of the so-called Serb Republic), this military force was split into three parts (the Army of Yugoslavia and the para-militaries of the so-called Republic of Serb Kraina and the Serb Republic), which "distributed" among themselves the former federal arms and military equipment. Former officers of "Yugoslav orientation" were either replaced or joined the two aforementioned para-military formations. Many of them have remained on the payroll of the Army of Yugoslavia (approximately 6,000 on the occupied territories of the Republic of Croatia only).

General Kadijević's book has allegedly been banned in the SR Yugoslavia (Serbia/Montenegro).

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8. According to a decision by the Hague International Tribunal for War Crimes Committed on the Territory of Former Yugoslavia, investigations have been initiated against Ratko Mladić on charges of the crime of genocide, war crimes against civilian population and the destruction of cultural and historical monuments.

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MAINTENANCE OF INTERNATIONAL SECURITY

Letter dated 16 June 1995 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

I am writing to you concerning the letter dated 1 June 1995 from the Permanent Representative of Croatia to the United Nations addressed to you (A/50/207). Upon instructions of my Government, I have the honour to state the following.

The aggression of the Croatian Army against a United Nations Protected Area (UNPA), Sector West (western Slavonia), on 1 May 1995 has had dire consequences on the Serbian population as a whole. According to information available so far, the Croatian Army killed more than 3,300 civilians and over 1,000 poorly armed soldiers of the Republic of Serb Krajina (RSK) after they had accepted the cease-fire and ceased resistance.

Fully aware of the crimes against humanity and the breaches of humanitarian law committed in UNPA Sector West, the Zagreb authorities have denied access to United Nations forces to investigate the crimes (see report of the Secretary-General, dated 9 June 1995, submitted pursuant to Security Council resolution 994 (1995) (S/1995/467)), in an attempt to divert the attention of the international community from the tragic fate of the Serb people in those parts. To achieve those ends, the Permanent Representative of Croatia to the United Nations sent the above-mentioned letter providing distorted information on certain events or pure fabrications.

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* A/50/50/Rev.1.

In the letter of the representative of the Zagreb authorities, it is alleged that the attacks on some facilities of the Catholic church in the region of Banja Luka, eastern Slavonia and the Province of Vojvodina in Serbia, "represent a cowardly reaction to the successful military operation by Croatian forces that liberated western Slavonia". The ensuing conclusion is that the responsibility for the attacks should also be borne by the "Belgrade authorities" due to their "anti-Catholic" campaign.

Understandably, the authorities that were ready to commit an aggression against a UNPA (in which heavy arms and other military equipment of the army of the RSK were, in accordance with the Vance Plan, in the United Nations Protection Force (UNPROFOR) depots), that were involved in brutal mass murder of the Serb population in that area, that burned the dead bodies and washed the streets and roads to cover up the evidence of those massive crimes and that have undertaken to expel the remaining Serb population, have no other choice but to attempt to blame others for their own inhuman conduct and policy of ethnic cleansing.

How can a military action in western Slavonia be called liberation when the entire population in the territory was either killed or expelled for the sole reason that they were of Serb nationality and Orthodox faith? How can it be called liberation when the Croatian units, for example, in the village of Paklenica, east of Novska, killed the entire Serb population? Other than being Serbs, what was the guilt of Pantelija Kovacevic (age 74), Vera Kovacevic (age 65), Desanka Vukotic (age 68), Petar Vukotic (age 70), Vukasin Bozic (age 70), Dragica Pavlovic (age 58), Aleksija Raus (age 43) and Vesna Raus (age 19), burned alive in the cellar of the house where the infirmary in Paklenica was located?

Unfortunately, the case of Paklenica is not the only one. The same happened in Medari (where, among others, four members of the Vukovic family were killed, including 10-year-old Gordana and four-year-old Goran); in Nova Varos and other places. The character of the Zagreb authorities is best illustrated by the cowardly act of aerial bombardment and artillery fire against a column of 2,000 refugees en route to Okucani-Gradiska, during which 200 women and children were killed.

The official authorities of the Federal Republic of Yugoslavia have never approved either ethnic cleansing or the abuse of shrines or other facilities of other beliefs. The Government of the Federal Republic of Yugoslavia strongly denies the charges in the above-mentioned letter concerning its alleged negative policy towards the Catholic population or the property of the Catholic Church. The authorities of the Federal Republic of Yugoslavia make a clear distinction between the policy of present-day Croatia and that of the Catholic Church as a whole and the Croatian people. Consequently, the Catholic Church in the territory of the Federal Republic of Yugoslavia enjoys the same status and rights as the Serbian Orthodox Church. Their clergy, including the highest-ranking ones, regularly perform their religious duties and their property enjoys absolute protection.

On the other hand, all bishops of the Serbian Orthodox Church have been expelled from Croatia, their residences have been razed to the ground and most

Orthodox churches have been destroyed (by the end of 1992, in the territories of Croatia and Bosnia and Herzegovina, 139 Orthodox churches had been destroyed and 155 extensively damaged).

In the above-mentioned letter, the Zagreb authorities list the attacks on certain facilities of the Catholic Church in the Republic of Srpska (failing to mention that the attacks have been condemned by the Serbian Orthodox Church, the Government of the Federal Republic of Yugoslavia and the Government of the Republic of Srpska). They ignore the fact that, in their May aggression, Croatian forces totally destroyed the Slavonian eparchy. The eparchy was set up in the sixteenth century in those areas (then, as today, the Serb population constituted the absolute majority in the region), at the same time that the Peć patriarchy was restored. Hence, their efforts not only to expel the entire Serb population from western Slavonia but also to totally eradicate all traces of its spirituality.

In this latest aggression against western Slavonia, more than 9,000 Serbian houses were torn down. The bridge on the Sava River was blown up to prevent Serbian refugees from coming back. The remaining Orthodox churches were destroyed, damaged or desecrated. Croatian propaganda reports that the Orthodox churches in Jasenovac and Okucani remained intact. For the sake of truth, it needs to be said that in Jasenovac, the Church of Saint John the Baptist was erected in 1775 but was set afire in 1941 by the fascist regime of the "Independent State of Croatia". A new church was built in 1984 but was damaged in the wake of shelling by the Tudjman armed formations in 1991. On 1 May 1995, it was again looted, demolished and desecrated. The Church of Saint Demetrius in Okucani was erected in 1752 and destroyed by the "Independent State of Croatia" in 1942. A new Orthodox church, built in 1969, was damaged in 1991 by the armed forces of the Zagreb authorities and then again suffered further damage in the latest Croatian aggression on 1 May 1995. The entry gate has been torn down, all windows have been smashed, the chalice filled with spit and cigarette butts. Close to the eastern gate of the church, in the churchyard, a large hole has been dug and the surrounding soil has been covered with blood. Based on past experience of the "Independent State of Croatia", the present Croatian authorities obviously consider that it is better to expel all Serbs than to totally raze their churches. In his May address in Okucani this year, President Tudjman said that, instead of Serbs, Croats will now live in Okucani.

As can be seen from the above-mentioned letter, the Zagreb authorities tend to resort to half-truths and falsification of historical facts. In the same vein, the letter alleges that in Banja Luka the Serbs have always been a minority population. To support this claim, they refer to the 1948 census, according to which there were only 34.8 per cent of Serbs in Banja Luka. In doing so, they deliberately chose not to mention how many Serbs were there in 1931, 1981 and 1991. In fact, in 1931, in Banja Luka, there were 59.9 per cent, in 1981, 50.9 per cent and in 1991, 54.8 per cent. Only in the 1948 census, did Serbs not constitute an absolute majority (only a relative one) because of the genocide committed against them by the Pavelic "Independent State of Croatia" (in the Jasenovac concentration camp, in the period 1941-1945, from the Banja Luka region and western Slavonia alone, close to 500,000 Serbs were killed). The Zagreb authorities are well aware of this fact, as well as of the fact that in the multi-party Assembly of Banja Luka, there are both Croat and Muslim

representatives. The Vice-President of the Executive Council of Banja Luka is Anton Ruzic, a Croat. One of the representatives in the Assembly of Banja Luka, who actively participates in its work, is the President of the Croatian Democratic Community for Banja Luka, Nikola Gabelic. In other words, Banja Luka is not an ethnically clean town, whereas many towns in Croatia and Bosnia and Herzegovina, where the Serbs were an absolute or relative majority, are ethnically cleansed of Serbs (e.g., Zadar, Sibenik, Pakrac, Mostar) or their number has been drastically reduced (Zagreb, Split, Dubrovnik, Osijek, Tuzla, Zenica and others).

The letter of the Croatian representative to the United Nations contains harsh falsehoods on ethnic cleansing in Vojvodina. The Zagreb authorities know that more than 400,000 Serbs have been expelled from Croatia with meagre possessions in hand. On the other side, from the Federal Republic of Yugoslavia, citizens are free to leave if they wish to do so, not because they are forced to leave. In that case, they can take all their possessions. Owing to United Nations sanctions imposed against the Federal Republic of Yugoslavia a large percentage of those who leave are also Serbs. When the sanctions against the Federal Republic of Yugoslavia are lifted, the process of emigration will stop.

The allegations contained in the letter of the Croatian representative about the harassment of Croatian refugees from eastern Slavonia (Republic of Serb Krajina) in Morovic near Sid in the Federal Republic of Yugoslavia are totally senseless. The refugees, 83 of them, not 500, as alleged by the Croatian authorities, have been well received in the Federal Republic of Yugoslavia. They are now accommodated in the motel "One Thousand Roses" in the vicinity of Belgrade and have been taken care of by the United Nations High Commissioner for Refugees and will be allowed to leave for destinations they choose themselves and according to which States accept them.

It is not surprising that the Croatian authorities repeatedly insist that documents of the Federal Republic of Yugoslavia not be circulated in the United Nations. Their intention is to obscure the truth and they are positive they can win support in the United Nations for that purpose. The report of 21 May 1995 of the Organization to Coordinate the Protection of Human Rights in the Republic of Croatia, on its visit in the area of western Slavonia (region of Pakrac), indicates the non-existence of lists of persons taken to collection points, released and detained persons in the district jails, the non-existence of lists of the wounded or place of their hospitalization, the non-existence of lists of those killed or the sites of their burial. It is evident that the Zagreb authorities are trying to cover up all crimes of genocide, war crimes and crimes against humanity.

For those reasons, we feel it is necessary that the United Nations and its relevant bodies and organs conduct an efficient and thorough investigation of the crimes committed against the Serb civilian population in western Slavonia and against other categories of protected populations in armed conflicts, namely, prisoners of war, the wounded and sick members of the armed forces of the army of the Republic of Serb Krajina.

The Government of the Federal Republic of Yugoslavia does not have any doubts about what the investigation in UNPA Sector West is going to indicate. Consequently, all those in the United Nations will be able to see for themselves who is really advancing disinformation in United Nations documents and instigating hate and religious intolerance.

I should be grateful if you would have the present letter circulated as an official document of the General Assembly under item 81 of the preliminary list.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.